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## BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

COMMISSIONERS**DOCKETED****MAY 24 2004**

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO CONSTRUCT A  
GRADE-SEPARATED CROSSING OF THE  
BURLINGTON NORTHERN AND SANTA FE  
RAILWAY AT 67<sup>TH</sup> AVENUE, OVER GRAND  
AND NORTHERN AVENUES IN THE CITY OF  
GLENDALE, MARICOPA COUNTY, ARIZONA.

DOCKET NO. RR-02635B-04-0207

DECISION NO. 67009**OPINION AND ORDER**

DATE OF HEARING:

April 22, 2004

PLACE OF HEARING:

Phoenix, Arizona.

ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

APPEARANCES:

Mr. Timothy Sabo, Staff Attorney, Legal  
Division, on behalf of the Utilities Division of  
the Arizona Corporation Commission.

**BY THE COMMISSION:**

On March 18, 2004, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") a request for the Burlington Northern and Santa Fe Railway Company ("Railroad") to construct a grade-separated crossing at the Railroad's tracks at 67<sup>th</sup> Avenue over Grand and Northern Avenues in Glendale, Arizona ("Application").

On March 31, 2004, by Procedural Order, the Application was set for a hearing and ADOT was ordered to notify any interested party of the Application and the hearing.

On April 13, 2004, ADOT filed certification that notice had been provided pursuant to the terms of the Procedural Order.

On April 22, 2004, a full public hearing was held before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the matter was taken under advisement pending submission of a Recommended Opinion and Order to the Commission.

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On March 18, 2004, ADOT filed an Application in which it requested an Opinion and Order from the Commission to approve an agreement between ADOT and the Railroad for the construction of a grade-separated crossing at 67<sup>th</sup> Avenue over the tracks of the Railroad and over Grand and Northern Avenues in Glendale, Maricopa County, Arizona, AAR/DOT Nos. 025-413 R1 and 025-413 R2.

2. On April 13, 2004, ADOT filed certification that notice had been provided by certified U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on April 22, 2004.

4. The Application provides for the construction of an overpass at 67<sup>th</sup> Avenue extending above and over the tracks of the Railroad and the intersection of Northern and Grand Avenues in Glendale. When the overpass is completed, the existing at-grade crossing at the intersection of Northern and Grand Avenues will remain, but with updated automatic warning devices.

5. Staff testified that the cost for the construction of the overpass as provided in the Application will be funded by ADOT with federal highway funds.

6. After construction of the grade-separated crossing, the 67<sup>th</sup> Avenue roadway overpass will be maintained by ADOT and/or Glendale. The Railroad will continue to be responsible to maintain the grade-separated crossing at the intersection of Northern and Grand Avenues in accordance with A.A.C. R14-5-104.

7. Staff has recommended that the Application be approved.

**CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. The construction of the grade-separated crossing at the intersection of 67<sup>th</sup> Avenue with Northern and Grand Avenues in Glendale, Arizona, is necessary for the public's convenience and safety.

4. The Application should be approved as recommended by Staff.

**ORDER**

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application is hereby granted.

IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company shall notify the Commission, in writing, within ten days of both the commencement and the completion of the grade-separated crossing, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that upon completion of the upgrade, the Burlington, Northern and Santa Fe Railway Company shall maintain the Northern Avenue crossing at Grand Avenue in compliance with A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 24<sup>th</sup> day of May, 2004.

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

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SERVICE LIST FOR: BURLINGTON NORTHERN AND SANTA FE  
RAILWAY COMPANY

DOCKET NO.: RR-02635B-04-0207

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